



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,691	10/05/2000	David P Ferguson	10004941-1	9007

7590 04/07/2004
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

EL CHANTI, HUSSEIN A

ART UNIT	PAPER NUMBER
----------	--------------

2157

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/679,691

Applicant(s)

FERGUSON ET AL.

Examiner

Hussein A El-chanti

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. This action is responsive to communication received on Feb. 5, 2004. Claims 1-34 are pending examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6-10, 11, 21, and 31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Gleichauf et al., U.S. Patent No. 6,324,656 (referred to hereafter as Gleichauf).

Gleichauf teaches

As to claim 1, Gleichauf teaches a method for detecting devices connected to a network comprising:

sending a scan request to a remote command process running on a remote network host (see col. 3 lines 50-55 and lines 60-67, where the command process is the network vulnerability assessment (NVA));

scanning the network host with the remote command process to determine if devices are connected to the host (see col. 4 lines 15-34); and

receiving a response to the scan request from the remote command process that indicates whether a device is connected to the network host (see col. 2 lines 6-15).

As to claim 2, Gleichauf teaches the method of claim 1 wherein a controller process is used to send the scan request to the remote command process (see col. 4 lines 15-34).

As to claim 3, Gleichauf teaches the method of claim 2 wherein the controller process runs on a network host (see col. 4 lines 15-34).

As to claim 4, Gleichauf teaches the method of claim 1 wherein scanning the network host with the remote command process comprises sending a scan request from the remote command process to a host application program interface (see col. 3 lines 48-53, where the host application program interface is the network backbone).

As to claim 6, Gleichauf teaches the method of claim 1 further comprising maintaining an updated list of each network host running a remote command process with a host lookup process (see col. 4 lines 16-20).

As to claim 7, Gleichauf teaches the method of claim 6 further comprising consulting the list prior to sending the scan request (see col. 3 lines 57-67).

As to claim 8, Gleichauf teaches the method of claim 1 further comprising sending multiple scan requests to multiple remote command processes stored on network hosts (see col. 4 lines 16-20).

As to claim 9, Gleichauf teaches the method of claim 8 wherein the scan requests are sent in parallel (see col. 4 lines 16-20).

As to claim 10, Gleichauf teaches the method of claim 1 further comprising communicating information concerning the detected devices to a user (see col. 2 lines 16-36 and col. 4 lines 40-55).

As to claim 11, Gleichauf teaches a device detection system connected to a network comprising:

means for sending a scan request to a remote command process running on a remote network host (see col. 3 lines 50-55 and lines 60-67, where the command process is the network vulnerability assessment (NVA));

means for scanning the network host with the remote command process to determine if devices are connected to the host (see col. 4 lines 15-34); and

means for receiving a response to the scan request from the remote command process that indicates whether a device is connected to the network host (see col. 2 lines 6-15).

As to claim 10, Gleichauf teaches the method of claim 1 further comprising communicating information concerning the detected devices to a user (see col. 2 lines 16-36 and col. 4 lines 40-55).

As to claim 21, Gleichauf teaches a device detection system connected to a network comprising:

logic configured to send a scan request to a remote command process running on a remote network host (see col. 3 lines 50-55 and lines 60-67, where the command process is the network vulnerability assessment (NVA));

logic configured to scan the network host with the remote command process to determine if devices are connected to the host (see col. 4 lines 15-34); and logic configured to receive a response to the scan request from the remote command process that indicates whether a device is connected to the network host (see col. 2 lines 6-15).

As to claim 31, Gleichauf teaches a device detection system for remotely detecting devices connected to a network comprising:

a controller process running on a first network host, the controller process being configured to send a scan request to a remote network host (see col. 3 lines 50-55 and lines 60-67, where the command process is the network vulnerability assessment (NVA));

a remote process stored on a second network host, the remote command process being configured to receive the scan request sent by the controller process and initiate a scan of the second network host to determine whether devices are connected to the second network host (see col. 4 lines 15-34 and col. 2 lines 6-15).

As to claim 32, Gleichauf teaches the system of claim 31 further comprising a host lookup that maintains an updated list of every network host that is running a remote command process (see col. 4 lines 16-20).

As to claim 33, Gleichauf teaches the system of claim 32 wherein the host lookup process runs on the first network host (see col. 4 lines 16-20).

As to claim 34, Gleichauf teaches the system of claim 32 wherein the host lookup process runs on a third network host (see col. 4 lines 16-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gleichauf in view of Hemphill et al., U.S. Patent No. 6,490,617 (referred to hereafter as Hemphill).

Gleichauf teaches scanning the network host with the remote command process comprises sending a scan request from the remote command process to a host application program interface (see the rejection of claim 4) and requesting information directly from the devices (see col. 2 lines 28-37).

Gleichauf does not explicitly teach the limitation "receiving device addresses from the application program interface". However Hemphill teaches a method to receive device addresses in a network (see col. 1 lines 13-31).

It would have been obvious for one of the ordinary skill in the art at the time of the invention to modify Gleichauf by incorporating method for receiving device addresses from the application program interface as in Hemphill. One would be motivated modify Gleichauf to incorporate receiving device addresses from the application program interface because doing so would allow direct communication between the command process and the device by using the retrieved address and allows the command process faster update of the device status by directly checking the

Art Unit: 2157

retrieved address rather than scanning the network host and checking the status of all connected devices.

4. Claims 12-20 and 22-30 do not teach or define any additional limitations over claims 1-10 and therefore are rejected for similar reasons.

5. Applicant's arguments filed have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that; A) Gleichauf does not teach identifying devices that are connected to workstation B) Gleichauf does not teach "determine if devices are connected to the host" C) Gleichauf does not teach "receiving a response to the scan request from the remote command process that indicates whether a device is connected to the network host" D) Gleichauf does not teach an application program interface E) The rejection of claims 12-20 and 22-30 are improper F) Claims 32-34 were not rejected in the first office action.

In response to A) Applicant is arguing that the reference made of record does not teach identifying devices that are connected to a host. This limitation is not found in the claims. Claimed subject matter not the specification is the measure of the invention. Disclosure contained in the specification cannot be read into the claims.

In response to B and C) Applicant admits that Gleichauf "pings devices coupled to the network backbone in order to identify the all devices that are coupled" on the first paragraph of page 11 and where the ping function as is well known in the art is used to determine if a device is coupled to a network or a host as therefore Gleichauf meets the scope of the claimed limitations "determine if devices are connected to the host" and

"receiving a response to the scan request from the remote command process that indicates whether a device is connected to the network host".

In response to D) Gleichauf teaches a network vulnerability assessment engine that is used in identifying devices that are connected to a network. There is no limitation on the functionality of API that is used in the claimed invention and therefore Gleichauf meets the claimed limitation "application program interface".

In response to E) Claims 12-20 and 22-30 have similar limitations as claims 2-10 accordingly and therefore the limitations of claims 12-20 and 22-30 have been addresses in the first office action and therefor the citations of the prior art of record meets the limitation of claims 12-20 and 22-30.

In response to F) Claims 32-34 were rejected under 35 U.S.C. 102 as being anticipated by Gleichauf on page 5 of the first office action.

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Monitoring And Notification Method And Apparatus by Bilder, U.S. Patent No. 6,359,557.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A El-chanti whose telephone number is (703)305-4652. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hussein El-chanti

April 7, 2004


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100